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ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

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SEP 04 2008

In re Application of :
Dakai Liu et al. :
Application No. 09/046,840 : DECISION ON PETITION
Filed: March 24, 1998 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ENZ-56(D3) :
:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 18, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37

CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

The rule at 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Ramesh Krishnamurthy at (571) 272-4914. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1636 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.



David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/046,840	03/24/1998	1636	1115	ENZ-56(DIV3)	17	1

CONFIRMATION NO. 2602

CORRECTED FILING RECEIPT

28171
ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK, NY 10022



"OC000000031887022"

Date Mailed: 09/03/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections

Applicant(s)

DAKAI LIU, ISLIP, NY;
ELAZAR RABBANI, NEW YORK, NY;

Power of Attorney: The patent practitioners associated with Customer Number 28169

Domestic Priority data as claimed by applicant

This application is a DIV of 08/822,963 03/21/1997 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 05/02/1998

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/046,840**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

Title

VECTORS AND VIRAL VECTORS, AND PACKAGING CELL LINES FOR PROPAGATING SAME

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



PATENT
Attorney Docket No.: ENZ-56(D3)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number : 09/046,840 Confirmation No.: 2602
Applicant : Dakai Liu et al.
Filed : March 24, 1998
Title : VECTORS AND VIRAL VECTORS, AND PACKAGING CELL
LINES FOR PROPAGATING SAME
TC/Art Unit : 1636
Examiner: David Guzo, Ph.D.

Docket No. : ENZ-56(D3)
Customer No. : 28171

PETITION FOR UNINTENTIONALLY DELAYED CLAIM OF PRIORITY
UNDER 37 C.F.R. § 1.78(a)(3)

Mail Stop Petition
Director for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

[001] Applicants respectfully submit the enclosed petition to have the claim of priority in the above-referenced application corrected to reflect the proper chain of title. Applicants unintentionally did not claim priority to prior Application No. 08/822,963, filed on March 21, 1997. Applicants now seek to amend the specification to claim priority to Application No. 08/822,963.

Pursuant to 37 C.F.R. §1.78(a)(3), this petition contains:

- (i) the reference required by 35 U.S.C. § 120;
- (ii) the surcharge required under 37 C.F.R. §1.17(t) in the amount of

\$1370.00; and

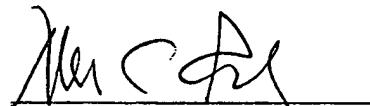
- (C) the following statement.

PATENT
Attorney Docket No.: ENZ-56(D3)

The entire delay between the filing of the application and the present claim of priority was unintentional due to an oversight in the preparation of the above-referenced application in claiming priority to all previous applications.

It is believed that no additional fees are due in connection with this filing. However, the Commissioner is hereby authorized to treat any current or future reply, requiring a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. Applicants also authorize the Commissioner to charge any additional fees to **Deposit Account No. 05-1135.**

Respectfully submitted,



Ronald C. Fedus
Registration No. 32,567
Attorney for Applicants

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527 Madison Avenue, 9th Floor
New York, New York 10022
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Date: March 18, 2008

ENZ-56(D3)



PATENT
Attorney Docket No. ENZ-56(D3)

Vectors for expressing exogenous gene or exogenous nucleic acid sequences

CROSS-REFERENCE TO RELATED APPLICATIONS

[001] This application is a divisional of U.S. Patent Application Serial No. 08/822,963, filed on March 21, 1997, now abandoned.

FIELD OF THE INVENTION

[002] This invention relates to the field of recombinant nucleic acid technology, and more particularly, to the production of gene expression systems involving novel vectors and viral vectors as well as unique packaging cell lines for propagating such vectors or viral vectors and to the processes for producing them.

[003] All patents, patent applications, patent publications, scientific articles, and the like, excluding U.S. Patent Application Serial No. 08/822,963, that are cited or identified in this application are hereby incorporated by reference in their entirety in order to describe more fully the state of the art to which the present invention pertains.

BACKGROUND OF THE INVENTION

[004] Virus and nucleic acid vectors provide a means to deliver nucleic acid sequences to cells, and they are widely used in gene therapy applications. Critical to effective gene therapy is the ability to establish efficient expression of an Exogenous Nucleic Acid(s) in the target cell. Expression of exogenous nucleic acid in target cells can take place when the Exogenous Nucleic Acid(s) is/are either in an integrated or in an episomal state. Although expression in the episomal state can take place in target cells, expression in most cases persists for only limited periods of